

FILED & ENTERED

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CLERK U.S. BANKRUPTCY COURT
Central District of California
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NOT FOR PUBLICATION
UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re:

JACQUELINE TRIMBLE

Debtor(s).

Case No.: 2:11-bk-44039-WB

CHAPTER 13

MEMORANDUM OF DECISION RE
MOTION FOR COURTROOM DECORUM
ORDER

[No hearing required]

Before the court are the two (2) motions for a courtroom decorum order (the “Trimble Motion” and the “Maroko Motion,” collectively, the “Decorum Motions”) filed by the bankruptcy petition preparer, Homayoun “Homy” Bazargan (“Bazargan”), in the above-referenced bankruptcy case. Bazargan seeks the imposition of various rules upon the conduct of the debtor, Jacqueline Trimble (“Trimble”) and Ron Maroko, the United States Trustee (“Maroko” or the “U.S. Trustee”), in future hearings with respect to the U.S. Trustee’s motion for fines and disgorgement of fees under 11 U.S.C. § 110¹ (“UST Motion”) filed against

¹ Unless otherwise indicated, all “Code,” “chapter” and “section” references are to the Bankruptcy Code, 11 U.S.C. §§ 101-1330 after its amendment by the Bankruptcy Abuse

1 Bazargan. Bazargan also seeks an evidentiary hearing into the conduct of Trimble and Maroko
2 during a May 9, 2012 hearing on the U.S. Trustee's Motion. On July 13, 2012, the U.S. Trustee
3 filed an opposition to the Decorum Motions and, in addition, requested that three (3) items be
4 stricken from the Declaration of Homayoun "Homy" Bazargan ("Bazargan Declaration") filed
5 with the Maroko Motion. The Court, having considered all pleadings, dispenses with oral
6 argument and makes the following findings on the issues.
7

8 I. STATEMENT OF FACTS

9 On August 10, 2011, Debtor voluntarily filed for chapter 13 *in pro per*. Debtor's
10 bankruptcy documents (schedules, statement of affairs, and chapter 13 plan) did not indicate that
11 they were prepared by a bankruptcy petition preparer. On January 3, 2012, Debtor's bankruptcy
12 case was dismissed for Debtor's failure to appear at the § 341(a) meeting. On January 11, 2012,
13 Debtor's case was closed; however, pursuant to the U.S. Trustee's request the case was reopened
14 on January 30, 2012.
15

16 On January 30, 2012, Maroko filed the UST Motion seeking fines and/or disgorgement of
17 fees against Bazargan under § 110. The UST Motion alleged that Bazargan committed fourteen
18 (14) violations under § 110, of which four (4) were committed in this case and ten (10) were
19 committed in Debtor's prior bankruptcy case before the Honorable Richard Neiter, Case No.
20 2:11-bk-31191-RN. The UST Motion sought an order: (1) imposing fines totaling \$21,000.00
21 against Bazargan; and (2) requiring Bazargan to disgorge and turn over to Debtor all fees
22 Bazargan received from Debtor in connection with the preparation of Debtor's bankruptcy
23 documents. On February 15, 2012, Bazargan filed an opposition to the UST Motion,
24 accompanied by 25 exhibits. On May 2, 2012, Maroko filed a reply, as well as evidentiary
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27 Prevention and Consumer Protection Act of 2005, Pub. L. 109-8, 119 Stat. 23 (2005). "Rule"
28 references are to the Federal Rules of Bankruptcy Procedure ("FRBP"), which make applicable
certain Federal Rules of Civil Procedure ("F.R.Civ.P."). "LBR" references are to the Local
Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California
("LBR").

1 objections to most of the exhibits presented by Bazargan.

2 The UST Motion was initially set for hearing on May 9, 2012. However, one day prior to
3 the hearing, the Court issued a tentative ruling continuing the matter to June 7, 2012.

4 Notwithstanding the tentative ruling, both parties appeared. Maroko requested that the hearing
5 be continued to June 14, 2012, rather than June 7, 2012, due to a scheduling conflict. Maroko
6 also requested that Bazargan be prohibited from filing a surreply to the UST Motion. The Court
7 granted both requests, the latter of which was over Bazargan's objection. Also, the scope of the
8 continued hearing was addressed. The Court prohibited any oral testimony at the continued June
9 14, 2012 hearing.

10
11 On June 14, 2012, immediately prior to commencement of the continued hearing on the
12 UST Motion, Bazargan filed the present Decorum Motions. At the June 14, 2012 hearing, the
13 Court did not rule on the Decorum Motions. Rather, the Court set a briefing schedule for a
14 response and reply. The Court further stated that oral argument would most likely not be
15 allowed; however, should the Court find oral argument necessary, a hearing would be scheduled.

16
17 At the June 14, 2012 hearing, the Court granted the UST Motion and found Bazargan
18 committed eight (8) violations of § 110. Two (2) of the violations were committed in Debtor's
19 current bankruptcy case and six (6) were committed in Debtor's prior bankruptcy case.

20 Bazargan was fined \$500.00 per violation pursuant to § 110(l)(1), and the fines were trebled
21 pursuant to § 110(l)(2). In all, the Court imposed a fine of \$12,000.00 against Bazargan.

22 Bazargan was also ordered to disgorge and turn over to Trimble \$1,800.00 of fees Bazargan
23 received from Trimble to prepare her bankruptcy documents. The court entered an order to the
24 same effect on June 25, 2012.
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II. DISCUSSION

A. Mootness of the Relief Requested in the Decorum Motions

The Decorum Motions seek from the Court: (1) a courtroom decorum order governing the conduct of Trimble and Maroko, respectively, at a future hearing; and (2) an evidentiary hearing to investigate whether grounds exist to dismiss the UST Motion on the basis of collusion between Maroko and Trimble.

The Court finds both requests have been rendered moot. Firstly, the request for a courtroom decorum order is moot because there are no matters currently pending which will require Bazargan to appear in Court with Maroko or Trimble. Secondly, the request for an evidentiary hearing is moot because the UST Motion was previously granted at the hearing on June 14, 2012; hence, the UST Motion cannot now be dismissed as a ruling was issued and the matter was adjudicated on its merits.

Notwithstanding the mootness of the Decorum Motions, there exist separate grounds to deny the requested relief.

B. Merits of the Trimble Motion

The Trimble Motion seeks: (1) a courtroom decorum order regarding Trimble's conduct at future hearings; and (2) an evidentiary hearing under FRBP 9014 to further investigate whether grounds exist to dismiss the UST Motion.

1. Request for Courtroom Decorum Order

The Trimble Motion requests that the Court impose various limitations on Trimble at a future hearing, including the following: (1) prohibiting Trimble from communicating with any witnesses or jurors; (2) prohibiting Trimble from entering the "Well Area" and requiring Trimble and her family, associates and friends to be seated in the "Audience Seating" before court is in session; (3) requiring Trimble to remain silent during all proceedings; and (4) requiring Trimble

1 to be “quiet, calm, and deliberate” because “[e]vidence in the case may be complex, graphic,
2 emotional, and sometimes very tedious.” See Trimble Motion, pp. 5-6.

3 In support of the relief requested, Bazargan alleges that Trimble violated courtroom
4 decorum at the May 9, 2012 hearing by entering the courtroom’s “Well Area” and standing next
5 to the U.S. Trustee in an “Aggressive/Combative” manner. Bazargan also alleges that Trimble
6 failed to appear for an evidentiary hearing that she was subpoenaed for by Bazargan in a
7 different debtor’s bankruptcy case. The court will not address the latter allegation as it is
8 immaterial to the Decorum Motions and the current discussion of Trimble’s courtroom conduct
9 in her bankruptcy cases.
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11 After review of the Trimble Motion, the Court’s record, and the Court’s recording of the
12 May 9, 2012 hearing, the Court finds that Trimble’s presence at the May 9, 2012 hearing was
13 appropriate. Trimble is a party in interest to these proceedings. Trimble, as the debtor, has a
14 financial stake in the outcome of the proceedings. Notably, Trimble is not represented by an
15 attorney; therefore, she may either stand by the podium behind the well or be seated at counsel’s
16 table during the hearings on the UST Motion. At the May 9, 2012 hearing, the Court did not
17 notice Trimble standing in an aggressive, combative posture. Further, the Court’s recording of
18 the hearing does not indicate that Trimble spoke aloud throughout the hearing or out of turn.
19 This Court will not enter a courtroom decorum order that preempts a party’s ability to defend
20 their self-interest, especially when the record indicates that the party has been well-mannered
21 previously. Accordingly, Bazargan’s request for a courtroom decorum order as to Trimble is
22 denied.
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24
25 2. Request for Evidentiary Hearing
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27 Also, the Trimble Motion seeks an evidentiary hearing under FRBP 9014 in order to
28 accomplish the following:

[T]o further investigate if actions of Trimble was in consort with command and control of the Government, whether or not an Order to Show cause for the purpose of if whether Government should be imposed fines and sanctions including the Dismissal of § 110 Motion due to actions of Trimble is justifiable and finally whether or not Court on her own Motion should refer Maroko to Attorney Disciplinary Panel per Fourth Amended General Order 96-05, lodged on 9/15/2011 by District Court and/or California State Bar for further disciplinary action(s).”

Trimble Motion, p. 3.

After review, the Court also denies this request. There is no basis for a finding that Trimble is “in consort with command and control of the Government.” The only relevant evidence offered in support of this contention is Trimble’s presence next to Maroko at the May 9, 2012 hearing. However, the mere fact that Trimble stood next to Maroko is insufficient evidence to support the contention that Trimble is “controlled by the Government.” Accordingly, Bazargan’s request for an evidentiary hearing is denied.

C. Merits of the Maroko Motion

The Maroko Motion seeks: (1) a courtroom decorum order governing Maroko’s conduct at future hearings; and (2) an evidentiary hearing under FRBP 9014 to further investigate whether grounds exist to dismiss the UST Motion. For the above-stated reasons, Bazargan’s request for an evidentiary hearing is denied as well.

1. Request for Courtroom Decorum Order

As to the courtroom decorum order, the Maroko Motion seeks the following relief: (1) that Maroko be required to notify Bazargan of all changes regarding the calendaring of events that he receives via PACER and/or the CM/ECF system; (2) that Maroko be required to provide a written explanation of the extent of his communication with Trimble; (3) that Maroko be required to address Bazargan as “Respondent” or “Mr. Bazargan” and refrain from deliberate mispronunciation of Bazargan’s name; and (4) that Maroko be prohibited from using any derogatory, provocative and fighting words towards Bazargan. See Maroko Motion, pp. 6-7.

1 The court will now address the merits of the seven (7) allegations made by Bazargan
2 against Maroko in support of the relief requested:

- 3 a. Bazargan alleges that Maroko attempted to hinder, delay, and defraud Bazargan by
4 not informing him of the changes to the date and time of the May 9, 2012 hearing.

5 This allegation is unfounded. The Court changed the date and time of the hearing *sua*
6 *sponte* in the Court's tentative ruling, which is accessible to Bazargan through the Court's
7 website the day prior to the hearing and available in the courtroom on the day of the hearing.
8 Further, the Court did not order Maroko to provide notice of the continued hearing date in the
9 tentative ruling. Thus, Maroko had no affirmative duty to inform Bazargan of the continued
10 hearing date.
11

- 12 b. Bazargan alleges that Maroko improperly made an "ex parte" motion to prohibit
13 Bazargan from filing a surreply to the UST Motion.

14 This allegation is unfounded. First, the motion was not made *ex parte*. Bazargan was
15 present when Maroko made the oral request that the Court not permit a surreply at the May 9,
16 2012 hearing. Second, neither the LBR nor F.R.Civ.P. provide for the filing of a surreply.
17 Further, a surreply is not authorized by any other rules of procedure absent express prior leave of
18 the Court. Thus, Bazargan would not have been permitted to file a surreply even if Maroko had
19 not made the oral request.
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- 21 c. Bazargan alleges that Maroko made the following false misrepresentation to the
22 Court: "Because Ms. Trimble has filed four (4) Bankruptcies and there is no need to
23 open these cases so Your Honor is also presiding on a case that has been filed in
24 Judge Neiter's court."

25 This allegation is unfounded. The Court's recording of the hearing reflects that Maroko
26 did not make this statement. Nonetheless, according to the Court's record, the Debtor has filed
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1 three prior bankruptcies² in the past two years; therefore, this would be an accurate statement.

- 2 d. Bazargan alleges that Maroko used fighting words meant to intimidate Bazargan
3 when he said in an allegedly sharp tone, "Your honor, this is THE Petition Preparer."

4 This allegation is unfounded. Maroko did not emphasize the word "the" in his statement.
5
6 Notwithstanding, even if Maroko did emphasize the word "the," in this instance the mere
7 emphasis on the word "the" does give rise to fighting words nor would it intimidate a reasonable
8 person.

- 9 e. Bazargan alleges that Maroko gained an unfair advantage by using Trimble's
10 presence at the May 9, 2012 hearing.

11 This allegation is unfounded. As addressed above, Trimble's presence at the hearing was
12 proper. Trimble was a party in interest and permitted to stand at the podium. Nonetheless,
13 Trimble's presence was immaterial and did not give Maroko an unfair advantage at the May 9,
14 2012 hearing on the UST Motion.

- 15
16 f. Bazargan alleges that Maroko utilized Trimble to commit "overt espionage upon
17 private legal notes and/or Respondent's evidentiary material" to gain an unfair
18 advantage at the May 9, 2012 hearing.

19 This allegation is unfounded. As previously discussed, Trimble's presence at the hearing
20 was proper. Besides Trimble's presence at the hearing, Bazargan has offered no other evidence
21 that Trimble spied on him during the hearing.

- 22
23 g. Bazargan alleges that Maroko misrepresented to the Court his reasons for filing the
24 UST Motion.

25 This allegation is unfounded. Bazargan fails to state what Maroko's true intentions were
26 in filing the UST Motion. Moreover, this Court has already previously determined that the UST
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² Debtor has filed 3 prior bankruptcies bearing the following case numbers: 1:09-bk-26047-KT;
2:10-bk-65429-BB; and 2:11-bk-31191-RN.

1 Motion was brought in good faith when the Court granted the UST Motion at the June 14, 2012
2 hearing.

3 Accordingly, Bazargan's request for a courtroom decorum order as to Maroko is denied.

4 D. Maroko's Request for the Court to Issue a *Sua Sponte* Order Striking Impertinent, Immaterial
5 and Scandalous Matter from the Maroko Motion
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7 In the opposition to the Maroko Motion, Maroko requests that three (3) statements in
8 Bazargan's Declaration to the Maroko Motion be stricken from the record as impertinent and
9 scandalous. The request is made pursuant to F.R.Civ.P. 12(f)(1), which is made applicable to
10 adversary proceedings under FRBP 7012(b). However, this is not an adversary proceeding; thus
11 FRBP 7012 does not apply. Rather, this is a contested matter under FRBP 9014. The applicable
12 Rule is FRBP 9018, which provides that a court "[o]n motion or on its own motion, with or
13 without notice, may make any order which justice requires ... (2) to protect any entity against
14 scandalous or defamatory matter contained in any paper filed in a case under the Code..."
15

16 Here, Maroko asserts that the following three statements are scandalous and should be
17 stricken from the record:

- 18 1) "To Respondent it sounded like a prosecutor walking to a courtroom and naming the
19 Defendant the derogatory term equivalent of what the accused allegedly has been
20 accused of within the corresponding indictment, i.e. shouting 'This is THE Whore!'
21 in a case involving a person accused of a crime of Provision of sex for money and in
22 the course of an arraignment hearing." Maroko Motion, Bazargan Decl. at ¶ 2,
original emphases.
- 23 2) "... so it could also be construed that this behavior was a 'Showing my hairy chest at
24 the first of night of wedding to young bride, and show her who is the man here' sort
25 of gesture to both this Honorable Court, newly appointed, and any and all audience
present in the courtroom at the onset of this various serious core proceeding."
Maroko Motion, Bazargan Decl. at ¶ 19:19-14.
- 26 3) "... He noticed a strong odor of Alcohol, roughly guessed to be a cheap brand of
27 Vodka, perhaps coming from the Audience Seating Row closest to the exit door that
28 made his body composure deteriorated further. Respondent did not wait to
investigate the source of said odor. Respondent is unaware of any and all situation(s)

1 involving any and all intoxicated counselor(s) that might have been transpired after
2 his exit from Courtroom 1375.” Maroko Motion, Bazargan Decl. at ¶ 26.

3 The Court finds that all three statements are scandalous and irrelevant to the Maroko
4 Motion and shall be stricken from the record under FRBP 9018. The first two statements, while
5 most likely were intended to be illustrative, go far beyond what is necessary for Bazargan to get
6 his point across. Accordingly, the Court finds that the first two statements are scandalous in
7 nature and draw inappropriate references to Maroko’s alleged behavior. The third statement
8 could be seen to imply that Maroko may have been intoxicated at the May 9, 2012 hearing.
9 However, at the June 14, 2012 hearing, Bazargan clarified on the record that this comment was
10 not meant to implicate Maroko. Thus, the Court finds that this statement is completely
11 immaterial to the Maroko Motion and will be stricken from the record on that basis.
12

13 III. CONCLUSION

14 For the reasons stated, the Decorum Motions are denied. Additionally, the three
15 statements in the Bazargan Declaration appended to the Maroko Motion will be stricken by the
16 Court *sua sponte* under FRBP 9018.
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18 An order will be entered by the Court consistent with this memorandum.
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26 DATED: September 27, 2012

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United States Bankruptcy Judge

NOTE TO USERS OF THIS FORM:

- 1) Attach this form to the last page of a proposed Order or Judgment. Do not file as a separate document.
- 2) The title of the judgment or order and all service information must be filled in by the party lodging the order.
- 3) **Category I.** below: The United States trustee and case trustee (if any) will always be in this category.
- 4) **Category II.** below: List **ONLY** addresses for debtor (and attorney), movant (or attorney) and person/entity (or attorney) who filed an opposition to the requested relief. DO NOT list an address if person/entity is listed in category I.

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*) **MEMORANDUM OF DECISION RE MOTION FOR COURTROOM DECORUM ORDER** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner indicated below:

I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s), the foregoing document was served on the following person(s) by the court via NEF and hyperlink to the judgment or order. As of 09/27/12, the following person(s) are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email address(es) indicated below.

Nancy K Curry (TR) ecfnc@trustee13.com
Ron Maroko ron.maroko@usdoj.gov
United States Trustee (LA) ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

II. SERVED BY THE COURT VIA U.S. MAIL: A copy of this notice and a true copy of this judgment or order was sent by United States Mail, first class, postage prepaid, to the following person(s) and/or entity(ies) at the address(es) indicated below:

Debtor

Jaqueline Trimble
28540 Victoria Road
Castaic, CA 91384

Homy Bazargan
269 S. Beverly Dr. Suite 1296
Beverly Hills, CA 90212

☐ Service information continued on attached page

III. TO BE SERVED BY THE LODGING PARTY: Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by U.S. Mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following person(s) and/or entity(ies) at the address(es), facsimile transmission number(s), and/or email address(es) indicated below:

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